

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JERRY SHARPE-MILLER,

Plaintiff,

No. 2:22-cv-406

v.

**WALMART, INC., AARON LNU;
CASSANDRA LNU; MAIRA LNU;
ANDREW LNU; JAS LNU, TONI LNU,
IVAN LNU; THOMAS LNU; and
TIMOTHY ROCHA in their individual
and official capacities**

Defendants.

DEFENDANT WALMART, INC.'S NOTICE OF REMOVAL

Defendant Walmart, Inc.¹ (“Walmart”) files this Notice of Removal removing Cause No. D-504-CV-2022-00177 from the Fifth Judicial District Court, Chavez County, New Mexico to this Court pursuant to 28 U.S.C. §§ 1331.

I. PROCEDURAL BACKGROUND

1. On April 26, 2022, Plaintiff Jerry Sharpe-Miller (“Plaintiff”) filed his “Complaint for Damages Arising from Deprivation of Civil Rights, Employment Discrimination, and Appeal of Order of Non-Determination” (“Complaint”) in the Fifth Judicial District, Chavez County, New Mexico styled *Jerry Sharpe-Miller v. Walmart, Inc.; Aaron LNU; Cassandra LNU; Enoc LNU; Timothy LNU; Maira LNU; Andrew LNU; Jas LNU; Toni LNU; Ivan LNU; Thomas LNU; and Timothy Rocha*, No. D-504-CV-2022-00177. In his Complaint, Plaintiff alleges four claims. First, he asserts Walmart, through its policies and practices, violated Plaintiff’s constitutional rights under the New Mexico Constitution. Second, Plaintiff asserts Walmart violated the New Mexico

¹ No other Defendants have been served with process.

Human Rights Act. Third, he asserts Defendants violated his rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.* (“Title VII”) and 42 U.S.C. § 1981 (“Section 1981”). Lastly, he asserts Walmart violated his rights under the Fourteenth Amendment of the United States Constitution.

2. Walmart was served with the Complaint on April 29, 2022. This removal is therefore timely filed. True and correct copies of all pleadings served on Walmart are attached hereto.

II. FEDERAL QUESTION

3. This Court has original jurisdiction over this matter by virtue of 28 U.S.C. § 1331 because Plaintiff asserted claims arising under the laws of the United States. Specifically, Plaintiff asserted claims arising under Title VII, Section 1981, and the Fourteenth Amendment of the United States Constitution. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(a) because Plaintiff’s claims arise under federal law.

4. This Court may exercise supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367 as those claims arise out of the same transaction and occurrence as his federal claims such that they form part of the same case or controversy and arise out of a common nucleus of operative facts.

III. PROPER VENUE AND COMPLIANCE WITH REMOVAL PROCEDURE

5. Venue for this action is proper in the United States District Court for the District of New Mexico because this is the district and division in which the state court action is pending. 28 U.S.C. §1446(a).

6. Defendant will promptly give Plaintiff written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). Defendant will also promptly file a copy of this

Notice of Removal with the Clerk of the Fifth Judicial District Court, Chavez County, New Mexico, where the action is currently pending, also pursuant to 28 U.S.C. § 1446(d).

7. True and correct copies of all process, pleadings, and the orders served upon Defendant in the state court action are being filed with this notice as required by 28 U.S.C. § 1446(a) and attached hereto. Defendant is also filing legible copies of all pleadings filed with the state court as required by D.N.M.LR-Civ. 81.1(a).

8. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days after service of the initial pleading setting forth a removable claim.

ACCORDINGLY, Defendant Walmart, Inc. hereby removes Cause No. D-504-CV-2022-00177 from the Fifth Judicial District Court, Chavez County, New Mexico on this 31st day of May, 2022.

Respectfully submitted,

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By: /s/ Clara B. Burns
CLARA B. BURNS
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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that, on May 31, 2022, a true and correct copy of the foregoing document was served on attorneys for Plaintiff, Derek Garcia, Gina Dennis, Michelle Garcia, New Mexico Legal Aid, Inc. PO Box 25486, Albuquerque, New Mexico 87125, via certified mail return receipt requested.

/s/ Clara B. Burns

CLARA B. BURNS